

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Ivan Rudiuk v. Merrick Garland, et al.

Case No. 3:25-cv-2600-BTM-SBC (S.D. Cal. Nov. 17, 2025) · No. 3:25-cv-2600-BTM-SBC · Decided
November 17, 2025

OPINION

Rudiuk

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 IVAN RUDIUK, Case No.: 3:25-cv-2600-BTM-SBC 12 Petitioner,

ORDER GRANTING PETITION

13 v. FOR WRIT OF HABEAS CORPUS

14 MERRICK GARLAND, et al., 15 Respondents. 16 17 18 19 20 21 22 23 24 25 26 27 28 1

Pending before the Court is Petitioner Ivan Rudiuk’s petition for a writ of habeas 2 corpus. On January 13, 2025, an Immigration Judge (IJ) ordered Petitioner removed to 3 Russia. The IJ also granted Petitioner’s application for withholding of removal to Russia. 4 On February 25, 2025, Petitioner’s order of removal became final. Petitioner claims that 5 his continued detention is unlawful, and Petitioner alleges that his removal is not likely. 6 The Government’s sole contention in response is that Petitioner is likely to be 7 removed to a third country. The Government requested that Mexico, Ecuador, or 8 Guatemala accept Petitioner, but they all declined to accept him. The Government has not 9 identified the third country to which Petitioner’s removal is allegedly likely. 10 The Court rules that Petitioner’s detention is limited “to a period reasonably 11 necessary to bring about [his] removal from the United States.” See *Zadvydas v. Davis*, 12 533 U.S. 678, 689 (2001); see also *Rodriguez v. Robbins*, 715 F.3d 1127, 1139 (9th Cir. 13 2013) (recognizing that 6 months of immigration detention is prolonged no matter the 14 authorizing statute of detention). Petitioner may not be detained indefinitely. See 15 *Zadvydas*, 533 U.S. at 690 (“A statute permitting indefinite detention of an alien would 16 raise a serious constitutional problem.”). The Court must decide whether Petitioner’s 17 removal is “reasonably foreseeable.” *Id.* at 699. 18 The Court finds the Government’s contention that Petitioner’s removal is reasonably 19 likely in the foreseeable future conclusory. The Government has not offered any real 20 support for its conclusion. There is little basis for the Court to accept the Government’s 21 position beyond that it is working on obtaining a third country to accept Petitioner. If the 22 Court accepted the Government’s conclusory position here, *Zadvydas* would have little 23 force. The Court in *Zadvydas* required federal habeas courts to assess the accuracy of the 24 Government’s position

that it is reasonably likely to remove a noncitizen. Id. 25 Here, because the Government has offered no real evidence to support its position, 26 the Court is constrained to rule that Petitioner's removal is not reasonably likely in the 27 foreseeable future. Indeed, the Government has had almost nine months to remove 28 Petitioner to a third country. The Government's failure to do so is strong evidence that 1 || Petitioner's removal to a third country is not reasonably likely in the foreseeable future. 2 || See *Nadarajah v. Gonzales*, 443 F.3d 1069, 1082 (9th Cir. 2006) (explaining that where no 3 country has been identified for the petitioner's removal, "one cannot say that his removal 4 ||is reasonably foreseeable"). 5 The petition for a writ of habeas corpus is GRANTED. Respondents shall either (a) 6 ||release Petitioner with appropriate conditions of release and/or supervision no later than 7 December 1, 2025, or (b) provide Petitioner a hearing, no later than December 1, 2025, 8 || before an IJ under 8 U.S.C. § 1231(a) for the IJ to determine whether Petitioner is a flight 9 || risk or a danger to the community. The Court retains jurisdiction to enforce the judgment. 10 || Respondents shall file a status report no later than December 3, 2025. 11 ||} SO ORDERED. 12 ||Dated: November 17, 2025 , 13 Pog Til Honorable Barry Ted Moskowitz 14 United States District Judge 15 16 17 18 19 20 21 22 23 24 25 26 27 28